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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JUAN RADILLO,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>FUGIOKA; et al.,</p> <p>Defendants - Appellees.</p>

No. 07-16673

D.C. No. CV-04-05229-AWI

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, Chief Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Juan Radillo, a California state prisoner, appeals pro se from the district court's summary judgment for defendants and from its order denying his motion for reconsideration in his 42 U.S.C. § 1983 action alleging that defendants denied

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

him a catalog in violation of his constitutional rights. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the grant of summary judgment, *Sorrels v. McKee*, 290 F.3d 965, 969 (9th Cir. 2002), and review for abuse of discretion the denial of reconsideration, *Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). We affirm.

The district court properly determined that defendants were entitled to qualified immunity on Radillo's First Amendment claim because the right that Radillo alleges was violated was not clearly established at the time of the incident in 2003. *See Prison Legal News v. Lehman*, 397 F.3d 692, 701-02 (9th Cir. 2005) (holding that prior case law did not clearly establish that a ban on catalogs was unconstitutional).

The district court did not abuse its discretion by denying Radillo's motion for reconsideration because the motion provided no basis for relief from the judgment. *See Sch. Dist. No. 1J*, 5 F.3d at 1263.

Radillo has abandoned any challenge to the grant of summary judgment on his due process claim by not raising the issue on appeal. *See Nilsson v. City of Mesa*, 503 F.3d 947, 950 n.1 (9th Cir. 2007).

AFFIRMED.